

Office of the Attorney General
State of Tennessee

*1 Opinion No. 97-091
June 23, 1997

Use of E911 Tariff Monies for Emergency Vehicle Radio Receivers

Rep. Edith Langster
State Representative
741 Legislative Plaza
Nashville, Tennessee, TN 37243

QUESTIONS

1. Is an emergency communications district, operating under Tenn.Code Ann. §§ 7-86-101, et seq., authorized to use emergency telephone service tariffs levied under Tenn.Code Ann. § 7-86-108 to purchase the emergency vehicle radio receivers for use with a proposed replacement system further described below?
2. Is the answer to Question 1 different if, under the system, emergency calls are dispatched from the 911 emergency answering point to another computer dispatch console at a separate location, which then communicates with an emergency provider through the emergency vehicle radio receiver?

OPINIONS

1. The emergency vehicle radio receivers are "necessary equipment for the district" within the meaning of Tenn.Code Ann. § 7-86-108(e). Therefore an emergency communications district may use emergency telephone service tariffs levied under this statute to purchase the receivers.
2. If the separate console to which you refer would be located at a police station or other emergency service provider, and purchased and maintained by the police department, an argument could be made that the radio receivers are part of the police department's communication system, and therefore are not "necessary equipment" for the district. So long as the radio receivers are an integral part of the emergency communications system provided by the district, however, this Office concludes that their purchase falls within the term "purchases of necessary equipment" for the district under Tenn.Code Ann. § 7-86-108(e).

ANALYSIS

This request concerns the use of emergency telephone service charges levied

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under the Emergency Communications District Law, Tenn.Code Ann. §§ 7-86-101, et seq. (the "Act"). The Metropolitan Government of Nashville and Davidson County ("Metro") provides 911 emergency service through an emergency communications district operating under the Act. Metro is planning to replace its existing method of providing 911 service with an 800 megahertz trunked- radio system. Dispatch infrastructure for the new system will include radio towers, lines, and computer dispatcher consoles. The proposed system requires special radio equipment to be located in the emergency vehicle, such as a police patrol car, in order for complete communication to take place between the 911 answering point and the emergency vehicle that will respond to the request for assistance. When this system is functioning, most communication will be by direct dispatch: that is, the 911 answering point will communicate directly with the emergency vehicle. Some calls may require communication from the computer at the answering point, to a computer at the dispatch console (possibly at a separate location) and then to the computer in the radio receiver in the emergency vehicle. The emergency vehicle radio receivers will be similar to a cellular telephone system.

*2 As a general matter, the primary purpose of statutory construction is to ascertain and give effect, if possible, to the intention or purpose of the legislature as expressed in the statute. *Westinghouse Electric Corporation v. King*, 678 S.W.2d 19, 23 (Tenn. 1984), appeal dismissed 105 S.Ct. 1830 (1984). The meaning of a statute is determined by viewing the statute as a whole and in light of its general purpose. *City of Lenoir City v. State ex rel. City of Loudon*, 571 S.W.2d 297, 299 (Tenn. 1978).

Tenn.Code Ann. § 7-86-102 sets forth the General Assembly's declaration and intent with regard to the Act. The statute provides in relevant part:

(a) The general assembly finds and declares that the establishment of a uniform emergency number to shorten the time required for a citizen to request and receive emergency aid is a matter of public concern and interest. The general assembly finds and declares that the establishment of the number 911 as the primary emergency number will provide a single, primary, three-digit emergency telephone number through which emergency service can be quickly and efficiently obtained and will make a significant contribution to law enforcement and other public service efforts requiring quick notification of public service personnel. It is the intent to provide a simplified means of securing emergency services which will result in saving of life, a reduction in the destruction of property, quicker apprehension of criminals and ultimately the saving of money.

(c) It is the intent that all funds received by the district are public funds and are limited to purposes for the furtherance of this part. The funds received by the districts are to be used to obtain emergency services for law enforcement and other public service efforts requiring emergency notification of public service personnel and the funds received from all sources shall be used exclusively in the operation of the emergency communications district. Tenn.Code Ann. § 7-86-102(a) and (c) (Supp. 1996).

Under the Act, a local legislative body may create an emergency communications

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district within all or part of its boundaries. Tenn.Code Ann. § 7-86-104; Tenn.Code Ann. § 7-86-105. Under Tenn.Code Ann. § 7-86-107, the board of directors of an emergency communications district must create an emergency communications service designed to have the capability of using at least one of four specified methods in response to emergency calls. These methods are the direct dispatch method; the referral method; the relay method; and the transfer method, and they are further defined in Tenn.Code Ann. § 7-86-103. Under Tenn.Code Ann. § 7-86-108, the board of directors of the district is authorized to levy an emergency telephone service charge to fund the 911 emergency telephone service. Subsection (e) of this statute provides:

Revenues from the tariffs authorized in this section shall be used for the operation of the district and for the purchases of necessary equipment for the district.

***3** Tenn.Code Ann. § 7-86-108(e) (Supp. 1996) (emphasis added). The Act defines "911 Service" as follows:

"911 service" means regular 911 service enhanced universal emergency number service or enhanced 911 service which is a telephone exchange communications service whereby a public safety answering point may receive telephone calls dialed to the telephone number 911. "911 service" includes lines and may include the equipment necessary for the answering, transferring and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911, but does not include dial tone first from pay telephones which may be made available by the service provider based on the ability to recover the costs associated with its implementation and consistent with tariffs filed with the Tennessee regulatory authority.

Tenn.Code Ann. § 7-86-103(11) (Supp. 1996) (emphasis added). Based on the facts provided in the request, it is the opinion of this Office that the emergency vehicle radio receivers you describe are "necessary equipment" for the district within the meaning of Tenn.Code Ann. § 7-86-108(e). As you describe the system, the special radio receivers are necessary components of an integrated system whose purpose is to provide a more efficient communications link between the answering point/dispatcher and the emergency service provider. These receivers are therefore equipment "necessary for the answering, transferring, and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911" within the definition of 911 service quoted above.

This conclusion is not inconsistent with the opinions cited in the request. See Op.Tenn.Atty.Gen. 95-064 (June 19, 1995); and U89-16 (February 16, 1989). In those opinions, this Office concluded that an emergency communications district may use its service charge to include "salaries and all equipment necessary to do the radio dispatching" only if the board of directors determines to use the "direct dispatch method" defined in Tenn.Code Ann. § 7-86-103. If the board determines to use the "referral," "relay" or "transfer" methods defined in the Act, then the radio dispatching costs should be borne by the agency that receives the transferred, referred, or relayed request for emergency service. This conclusion appears to be based on the reasoning that, if the district uses the referral, relay, or transfer methods defined in the Act, it merely forwards a request for emergency services to an emergency service provider central answering point, which must then dispatch the appropriate service vehicle to the person making the 911 call. In that case, the emergency communications district would not be taking responsibility for actually dispatching police, ambulance, or other emergency service to the provider. This reasoning was based on the definitions of the

different types of service included in the Act. Under those systems, therefore, costs associated with dispatching emergency services would not be part of the service provided by the emergency communications district.

*4 By contrast, the proposed emergency communications system is a fully integrated system that will undertake to receive requests for emergency service, forward them as necessary, and communicate the request directly to the police, ambulance, or other emergency vehicle that will ultimately contact the individual requesting the service. All these functions fall within the purposes set forth in Tenn.Code Ann. § 7-86-102(c), cited above. As a result, this Office concludes that the purchase of the receivers is included within the term "purchases of necessary equipment" for the district under Tenn.Code Ann. § 7-86-108(e).

In your request, you indicate that some calls may be communicated to the radio receivers from an answering point to the computer at a dispatch console, possibly at a separate location, and then to the computer in the radio receiver in the emergency vehicle. You do not indicate where the dispatch console will be located or whether it will be purchased and maintained by the emergency communications district. It is possible the console to which you refer would be located at a police station or other emergency service provider, and purchased and maintained by the police department. An argument could be made that the radio receivers are therefore part of the police department's communication system, and thus are not "necessary equipment" for the district. Clearly, there is some overlap between providing an emergency communication service and the provision of law enforcement services. So long as the radio receivers are an integral part of the emergency communications system provided by the district, however, it is the opinion of this Office that their purchase falls within the term "purchases of necessary equipment" for the district under Tenn.Code Ann. § 7-86-108(e).

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